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PATENT

Attorney Docket No.: 020017-000110US

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

On March 14, 2005

TOWNSEND and TOWNSEND and CREW LLP

By:

JoAnn Evangelista

JoAnn Evangelista

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

NED S. RASOR et al.

Application No.: 09/614,389

Filed: July 12, 2000

For: METHODS AND APPARATUS
FOR RELIEVING HEADACHES,
RHINITIS AND OTHER
COMMON AILMENTS

Customer No.: 20350

Confirmation No. 1930

Examiner: HENRY A. BENNETT

Technology Center/Art Unit: 3743

RESPONSE UNDER 37 CFR §1.111

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed January 27, 2005, reconsideration of the rejections stated in the Office Action is requested in view of the following remarks.

Applicants thank Examiner Bennett for the helpful and courteous telephone interview on March 2, 2005. In the telephone interview, Applicants' undersigned representative pointed out certain inconsistencies in the rejections stated in the Office Action mailed on January 27, 2005. In particular, the inconsistencies are as follows:

1. The rejections stated in the Office Action mailed on December 12, 2002, were to the claims as amended in a Preliminary Amendment mailed on September 4, 2001, and

corrected on October 24, 2001. These claims were substantively amended on three occasions since September 10, 2002, including amendments mailed on September 8, 2003; October 30, 2003; and finally on October 15, 2004. As the claims have been substantially amended since September 4, 2002, Applicants believe that the rejections stated in the original Office Action cannot be applied to the claims as presently amended.

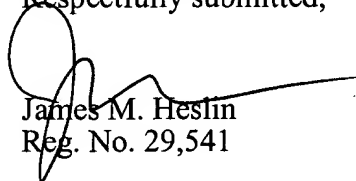
2. Applicants further note that Examiner Bennett, in an Office Action mailed on April 6, 2004, allowed claims 16-18, 20, 21, and 24-27, objecting to a number of additional claims, and rejecting only claims 1, 10-12, and 14. The Office Action mailed on January 27, 2005, offers no explanation as to why the allowed and objected to claims are now being rejected.

3. It is further noted that the amendments filed on October 15, 2004, should have placed all claims in condition for allowance since they removed "oxygen" from the list of therapeutic gases and all therapeutic method claims where the patient would continue breathing. Such amendments overcame the grounds for rejection stated in the prior Office Action.

In the above-noted telephone conference, Examiner Bennett agreed to reconsider the objections made in the Office Action mailed January 27, 2005, in view of the amendments and arguments made between the Office Action mailed on September 12, 2002, and the present time.

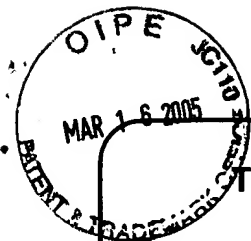
If for any reason the Examiner believes that a telephone conference would in any way expedite prosecution of the subject application, the Examiner is invited to telephone the undersigned at (650) 326-2400.

Respectfully submitted,



James M. Heslin
Reg. No. 29,541

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PTO/SB/21 (09-04)

**TRANSMITTAL
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Total Number of Pages in This Submission

4

Application Number

09/614,389

Filing Date

July 12, 2000

First Named Inventor

RASOR, NED S.

Art Unit

3743

Examiner Name

HENRY A. BENNETT

Attorney Docket Number

020017-000110US

ENCLOSURES (Check all that apply)☐

Fee Transmittal Form

☐

Fee Attached

☒

Amendment/Reply

☐

After Final

☐

Affidavits/declaration(s)

☐

Extension of Time Request

☐

Express Abandonment Request

☐

Information Disclosure Statement

☐

Drawing(s)

☐

Licensing-related Papers

☐

Petition

☐Petition to Convert to a
Provisional Application☐Power of Attorney, Revocation
Change of Correspondence Address☐

Terminal Disclaimer

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Request for Refund

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CD, Number of CD(s) _____

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Landscape Table on CD

☐

After Allowance Communication to TC

☐Appeal Communication to Board
of Appeals and Interferences☐Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)☐

Proprietary Information

☐

Status Letter

☒Other Enclosure(s) (please identify
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☐Certified Copy of Priority
Document(s)☐Reply to Missing Parts/ Incomplete
Application☐Reply to Missing Parts
under 37 CFR 1.52 or 1.53

Remarks

The Commissioner is authorized to charge any additional fees to Deposit
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Firm Name

Townsend and Townsend and Crew LLP

Signature

Printed name

James M. Heslin

Date

March 14, 2005

Reg. No.

29,541

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JoAnn Evangelista

Date

March 14, 2005